

BEFORE THE SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SHORELINE
VARIANCE DENIED TO TERENCE P.
CHAMPION BY MASON COUNTY,

TERENCE P. CHAMPION,

Appellant,

v.

MASON COUNTY and STATE OF
WASHINGTON, DEPARTMENT OF
ECOLOGY,

Respondents.

SHB No. 89-67

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

The Shorelines Hearings Board held a hearing at Shelton, Washington, Thursday, August 30, 1990 on Terence P. Champion's appeal contesting Mason County's denial of a shoreline variance to permit construction of a 12 foot by 25 foot boathouse with deck top at the Champion residence on Mason Lake Drive South.

Present for the Board were: Members Harold S. Zimmerman, presiding; Nancy Burnett, Mary Lou Block and Steven W. Morrison. Appellant Champion was represented by himself. Respondent Mason County was represented by Deputy Prosecuting Attorney, Michael Clift; and Kerry O'Hara, Assistant Attorney General, represented the Washington State Department of Ecology. Court reporter Bibi Carter of Gene Barker and Associates, recorded the proceedings.

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
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1 Having heard testimony and argument, reviewed exhibits, and
2 conferred, the Board makes these

3 FINDINGS OF FACT

4 I

5 Terence P. Champion has a 32 foot by 52 foot house on Lot 21 of
6 Mason Lake Estates on the southeast side of 7-mile long Mason Lake in
7 Mason County. The house is 85 feet from the ordinary high water mark
8 on the lake. The lot has a 25 foot setback toward the Groves' Lots 19
9 and 20, and a five foot setback on the Cranes' Lot 22. Each home has
10 a concrete boat ramp.

11 II

12 Because he is gone frequently, wants his boat protected from the
13 weather, and is concerned about vandalism of his boat, Mr. Champion
14 applied for a substantial development permit to build a 12 foot by 25
15 foot boathouse into the bank in the middle of his lot with a picnic
16 deck on its roof and with a 36-42 inch railing.

17 III

18 The Champion site is a residential lot with a single family
19 residence, garage, concrete boat ramp and pier. A driveway goes from
20 the Mason Lake road down to the existing boat ramp. The surrounding
21 area is primarily residential with single family homes. There are
22 numerous docks around the lake, but no boathouses in the immediate
23 vicinity on that side of the lake.

1 IV

2 Because the proposed project would exceed \$2,500, a substantial
3 development permit would be required. Because the proposal would be
4 built waterward of the common line setback, a variance permit would be
5 required.

6 V

7 The Mason County Shoreline Advisory Board reviewed the
8 applications and unanimously recommended denial specifically referring
9 to the fact they do not meet all setback requirements.

10 VI

11 At the meeting of the Board of County Commissioners, it was
12 pointed out that the submitted plans indicate that the shoreline
13 setback would range from 48 feet to 60 feet in front of the adjacent
14 residences, thus requiring a variance.

15 VII

16 The Shoreline Advisory Board's report to the Board of
17 Commissioners also stated that they did not find that the applicant
18 had shown hardship according to the Shoreline Master Program in that
19 he was not precluded from reasonable use of the property.

20 VIII

21 Tom Miller, Champion's agent, explained to the commissioners that
22 from preliminary discussions with county staff, Champion and Miller
23 did not believe there would be a problem with the project, and they
24

1 went ahead and paid permit fees of from \$300 to \$400. He
2 that the boathouse would be a quality structure, that neig
3 not object, and that because of the slope, the boathouse w
4 adversely block views. He said that to build the boathous
5 main residence would block the garage, and they did not wa
6 septic tank drainfield. Miller said Champion wants to kee
7 out of the weather in winter time, and is concerned about
8 when he is gone.

9 IX

10 The Department of Ecology wrote to Mason County on Se
11 1989, commenting that the proposed project would require a
12 substantial development and variance permit because the bo
13 deck would exceed the required shore setback and the deck
14 30" height limit. The department also pointed out that th
15 County master program indicates boathouses shall be discou

16 X

17 Any Conclusion of Law deemed to be a Finding of Fact
18 adopted as such. From these Findings of Fact, the Board m

19 CONCLUSIONS OF LAW

20 I

21 The Shorelines Hearings Board has jurisdiction in the
22 case. RCW 90.58.020. The appellant has the burden of pro
23 90.58.140(7).

II

To obtain a variance permit the applicant must demonstrate all of the following:

(2) Variance permits for development that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.020(2)(b), except within those areas designated by the department of marshes, bogs, or swamps pursuant to chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the master program;

(b) That the hardship described in WAC 173-14-150(2)(a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

(c) That the design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

(d) That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and

(e) That the public interest will suffer no substantial detrimental effect. WAC 173-14-150(2).

The Mason County Shoreline Master Program includes similar requirements. (Chapt. 7.28.020).

The Board concludes that denial of the variance will not significantly interfere with a reasonable use of the property.

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III

A boathouse is not a reasonable use of the property under two provisions of the Mason County Shoreline Master Program.

The Board concludes that hardship has not been established.

Under use regulations of the Mason County Shoreline Master Program, page 48, regulation 8 states: "In order to preserve aesthetic characteristics, no fence or wall shall be erected, placed or altered nearer to the water than the building setback line, unless it is under 30" in height." Mason County construes this regulation would apply in this instant case. We agree.

Under the Mason County Shoreline Master Program, page 71, relating to piers and docks, policy 7 states: "Boathouses and covered moorage shall be discouraged." Permitting the boathouse would be encouraging such development.

IV

Finally, the Board concludes that to permit the boathouse would not be compatible with other residences in the area on the south side of Mason Lake.

The Board realizes there are boathouses on Mason Lake, in view of the Champion property. They are located across the lake on the north side. The date of their construction was not determined. Recent construction of boathouses there have been notified of their being in violation of Mason County's Shoreline Master Program. No boathouses are visible on the south side within vicinity of Champions' residence.

V

Even were the hardship of WAC 173-14-150(2)(a) shown, which it was not, the proposal would not meet the requirement of WAC 173-14-150(2)(b) in that appellant has not shown unique conditions specific to his property.

VI

The Board recognizes there may be some creative ways in which Mr. Champion may be able to improve his use of the existing concrete boat ramp and bring his boat on the land for safety. The Board further recognizes Mr. Champion's concern for his boat during his absence while on company business. Further discussion with Mason County planning and shoreline officials may be appropriate and worth considering.

VI

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. From these Conclusions of Law, the Board enters this

ORDER

The decision of the Mason County Board of Commissioners to deny the substantial development permit and variance for the Champion boathouse is AFFIRMED.

DONE this 9th day of October, 1990.

SHORELINES HEARINGS BOARD


HAROLD S. ZIMMERMAN, Presiding


NANCY BURNETT, Member


MARY LOU BLOCK, Member


STEVEN W. MORRISON, Member

INFORMATION ON EXHIBITS

Please notify Ms. Robyn Bryant of this office by

Dec 9, 1990 if you will be arranging to have your oversized exhibits retrieved.

If you do not notify us, absent an appeal, the exhibits will be discarded. If the matter is appealed, the exhibits are sent to Superior Court.